STATE OF NEW YORK

6165--A

2021-2022 Regular Sessions

IN ASSEMBLY

March 10, 2021

Introduced by M. of A. EPSTEIN, GALLAGHER, STECK, JACKSON, GALEF -- read once and referred to the Committee on Housing -- recommitted to the Committee on Housing in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to enacting the electric vehicle rights act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The real property law is amended by adding a new article 9-D to read as follows:

ARTICLE 9-D

ELECTRIC VEHICLE RIGHTS ACT

Section 343. Certain covenants, conditions, and restrictions of homeowners' associations prohibited.

§ 343. Certain covenants, conditions, and restrictions of homeowners' associations prohibited. 1. Definitions. For the purposes of this section:

(a) "restriction on use" shall mean any covenant, restriction, or condition contained in:

(i) a deed;

(ii) a contract;

(iii) the by-laws of a homeowners' association;

(iv) any rules or regulations adopted by a homeowners' association;

(v) a security agreement; or

(vi) any other instrument affecting the transfer or sale of, or any interest in, real property.

(b) "electric vehicle charging station" shall have the same meaning as such term is defined in section three hundred thirty-nine-ll of this chapter.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD10014-02-2

2. A homeowners' association may not adopt or enforce any rules or regulations that would effectively prohibit, or impose unreasonable limitations on, the installation or use of an electric vehicle charging station. A restriction on use which effectively prohibits the installation or use of an electric vehicle charging station is unenforceable and shall be void as contrary to public policy. For the purposes of this subdivision, an unreasonable limitation includes, but is not limited to, any restriction on use that:

(a) inhibits the electric vehicle charging station from functioning at its intended maximum efficiency; or

(b) increases the electric vehicle charging station's installation or maintenance costs by an amount which is estimated to be greater than ten percent of the total cost of the initial installation of the electric vehicle charging station, including the costs of labor and equipment.

3. Notwithstanding subdivision two of this section, a homeowners' association may adopt or enforce a restriction on use to prohibit the installation of an electric vehicle charging station that is located on property owned by the homeowners' association or that is located on property owned in common by the members of the homeowners' association.

4. If approval for the installation or use of an electric vehicle charging station is required by a homeowners' association, the application for approval shall be processed and approved by the association in a manner prescribed by the association and shall not be willfully avoided or delayed. The approval or denial of an application shall be in writing. Any denial of a homeowner's application shall include a detailed description of the exact basis for the denial and shall include specific examples of the homeowners' association's concerns, if applicable. If an application is not denied in writing within sixty days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request for additional information.

5. An electric vehicle charging station shall meet the requirements established by any local, state or federal law, rule or regulation on health and safety standards and those requirements imposed by state and local permitting authorities.

6. In any action by a homeowner requesting to have an electric vehicle charging station installed and seeking to enforce compliance with this section, the homeowner shall be awarded reasonable attorney's fees if he or she prevails.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law.